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| Adopted | Rejected |
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## COMMITTEE REPORT

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|------|---|
| YES: | 7 |
| NO:  | 6 |

### MR. SPEAKER:

*Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1117, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 24-3-2-14 IS ADDED TO THE INDIANA CODE
- 3 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2002]: **Sec. 14. (a) Except as provided in subsection (c), a**
- 5 **cigarette manufacturer or distributor may not do the following:**
- 6 **(1) As a condition of a retailer's receipt of a cigarette price,**
- 7 **participation in a price or product promotion, or any**
- 8 **compensation, rebate, or other inducement relating to a**
- 9 **promotion, require any of the following:**
- 10 **(A) A retailer to allocate to the manufacturer or**
- 11 **distributor a percentage, a fraction, or an absolute amount**
- 12 **of the retailer's in-store or on-premises cigarette display,**
- 13 **signage, or advertising space.**

1           **(B) A retailer to participate or not participate in a price,**  
 2           **merchandising, or promotional program of another**  
 3           **manufacturer or distributor.**

4           **(2) As a condition of a retailer's receipt of a monetary**  
 5           **payment or other inducement require any of the following:**

6           **(A) A retailer to allocate to the manufacturer or**  
 7           **distributor a percentage or fraction, as opposed to an**  
 8           **absolute amount, of the retailer's in-store or on-premises**  
 9           **cigarette display, signage, or advertising space.**

10          **(B) A retailer to participate or not participate in a price,**  
 11          **merchandising, or promotional program of another**  
 12          **manufacturer or distributor.**

13          **(C) A retailer to allocate a percentage, a fraction, or an**  
 14          **absolute amount of the retailer's total in-store or**  
 15          **on-premises space for cigarette display, signage, or**  
 16          **advertising.**

17          **(b) A cigarette manufacturer or distributor may not provide a**  
 18          **retailer with a monetary payment or other compensation to limit**  
 19          **the area of the retailer's in-store or on-premises cigarette display,**  
 20          **signage, or advertising space that is provided to another cigarette**  
 21          **manufacturer or to a cigarette category.**

22          **(c) A cigarette manufacturer or distributor may provide a**  
 23          **retailer with a monetary payment or other compensation for an**  
 24          **absolute amount of the retailer's in-store or on-premises cigarette**  
 25          **display, signage, or advertising space.**

26          **(d) A person who suffers damages because of an act or omission**  
 27          **by a cigarette manufacturer or distributor under this section is**  
 28          **entitled to compensation for actual damages, prejudgment interest,**  
 29          **punitive damages, reasonable attorney's fees, and court costs.**

30          **SECTION 2. IC 35-46-1-11.8 IS ADDED TO THE INDIANA**  
 31          **CODE AS A NEW SECTION TO READ AS FOLLOWS**  
 32          **[EFFECTIVE JULY 1, 2002]: Sec. 11.8. (a) This section does not**  
 33          **apply to the following:**

34          **(1) A retail establishment that derives at least seventy-five**  
 35          **percent (75%) of the establishment's revenue from tobacco**  
 36          **and tobacco related products.**

37          **(2) A retail establishment that prohibits an individual who is**  
 38          **less than eighteen (18) years of age to enter the establishment.**

1       (b) A retail establishment may not offer for sale or display  
2 individual packages of cigarettes that allow a customer access to  
3 the cigarettes without the assistance of an employee of the retail  
4 establishment.

5       (c) A person who violates this section commits a Class C  
6 infraction. Notwithstanding IC 34-28-5-4(c), a civil judgment for  
7 an infraction committed under this section must be imposed as  
8 follows:

9           (1) If the person has not been cited for a violation of this  
10 section in the previous ninety (90) days, a civil penalty of fifty  
11 dollars (\$50).

12          (2) If the person has had one (1) violation in the previous  
13 ninety (90) days, a civil penalty of one hundred dollars (\$100).

14          (3) If the person has had two (2) violations in the previous  
15 ninety (90) days, a civil penalty of two hundred fifty dollars  
16 (\$250).

17          (4) If the person has had three (3) or more violations in the  
18 previous ninety (90) days, a civil penalty of five hundred  
19 dollars (\$500).

20 A person may not be cited more than once every twenty-four (24)  
21 hours.

22       (d) Notwithstanding IC 34-28-5-5(c), civil penalties collected  
23 under this section must be deposited in the youth tobacco education  
24 and enforcement fund established by IC 7.1-6-2-6.

(Reference is to HB 1117 as introduced.)

**and when so amended that said bill do pass.**

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Representative Fry